

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

DOREAN WHITE, ET AL.

PLAINTIFFS

VS.

CIVIL ACTION NO. 4:09cv54-WAP-JMV

**HEARTLAND CATFISH COMPANY ,
INC.**

DEFENDANT

JOINT PROTECTIVE ORDER

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure and this Court's Order of Conditional Certification (Doc. 64), it is hereby agreed by the parties, and this Court orders as follows:

1. This Order shall govern the employee list of all current and former employees in the putative class, including the names, addresses and other contact information of former or current employees of Heartland Catfish Company, Inc., produced to Plaintiffs by Heartland Catfish Company, Inc., hereinafter "Defendant" in accordance with this Court's Order of Conditional Certification entered on July 5, 2011. [See Doc. 64, p. 1-2].

2. Such information contained within the employee list provided by Heartland Catfish Company, Inc., to Plaintiffs shall be deemed "Confidential." The employee list shall be used solely in connection with pre-trial proceedings, preparation for trial, trial or any other proceeding in this litigation, including any appeal, and is not to be disclosed or used for any other purpose without the consent of all parties or unless the Court shall, on motion and for good cause shown, decide otherwise.

3. The employee list so designated Confidential in accordance with this Order shall be maintained in confidence in accordance with the terms of this Order and shall be used solely for the purpose of this action or appeal and shall not be used for any commercial, business, or other purpose whatsoever.

4. The confidential information and employee list subject to this Order shall not be disclosed to anyone other than the following:

- (a) counsel representing the parties in this litigation, including counsel or any other legal staff personnel who are employed by the parties and are participating in litigation on behalf of a party;
- (b) plaintiffs (including opt-in plaintiffs)¹;
- (c) expert consultants and expert witnesses independently retained by plaintiffs to furnish technical or expert services or to give expert opinion testimony with respect to the subject matter thereof for the trial of this action.
- (e) potential or actual witnesses or deponents as provided herein;
- (f) such other persons as may be specifically designated by the Court.

5. Upon the production of confidential information or documents, counsel for the parties

¹ This action is brought under the Fair Labor Standards Act (“FLSA”). The FLSA provides, in relevant part, that:

An action to recover the liability [for unpaid wages and overtime] may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and on behalf of himself or themselves and other similarly situated. No employee shall be a party Plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought.

See 29 U.S.C. § 216(b).

shall undertake sufficient measures and safeguards to protect the security of said record within their possession.

6. The employee list and information therein may be referred to or incorporated in documents, including briefs, affidavits or interrogatories filed with this Court, provided that such documents shall be filed with the Clerk of Court and prominently marked "Confidential documents subject to Protective Order entered by the United States District Court for the Northern District of Mississippi" or "Confidential-Subject to Protective Order" and accompanied by a separate motion to the Court requesting an order that said documents be filed under seal.

7. Counsel for the parties who have received the employee list and the information contained therein shall destroy said information within forty-five (45) days after final termination of this action, including all appeals, except that counsel may, to the extent necessary to comply with the requirements of his/her malpractice insurance carrier, maintain such Confidential Information for a longer period of time of up to two years, provided that any such Confidential Information so maintained is kept securely and confidentially in counsel's offices, and is destroyed upon expiration of the up to two year period. The agreement in this paragraph is not intended to require the destruction of attorney work-product or attorney-client memoranda or other documents that may contain or reflect Confidential Information, so long as any such documents are stored safely and confidentially in the offices of counsel to any of the parties. The parties and their counsel further agree that the Confidential Information remains confidential after the conclusion of litigation of this action and that such Confidential Information may not be used in any other matter or for any other purpose without the prior written consent of all parties to this action.

8. The obligations described in this Protective Order are to be in force for the duration of litigation of this action and shall remain in effect subsequent to its termination so as to protect the confidentiality of the information.

9. This Agreement and Order may be modified, extended, or limited by agreement of the parties with Court approval, or otherwise by order of the Court. The fact that information is designated as Confidential Information shall not be deemed to be determinative of what the Court may subsequently determine to be confidential.

SO ORDERED, this 12th day of August, 2011.

/s/ Jane M. Virden
UNITED STATES MAGISTRATE JUDGE

AGREED TO AND
APPROVED FOR ENTRY

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